IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 6240 OF 2007

ALONGWITH

WRIT PETITION NOS. 6252 TO 6266 & 6288 OF 2007

M/s. Chaudhary Builders .... Petitioner

versus

Dost 'B' Bldg. Co-op.Hsg.Sty. & ors..... Respondent.

Mr. P.S. Dani i/b. S.G.Deshpande for the petitioners.
Ms. Lalika Belindage for respondent no.1.

CORAM; A.P. DESHPANDE, J.
DATED; 13TH SEPTEMBER, 2007

P.C. ;

1. The respondent no.1 is the housing society and the suit property has been developed by the present petitioner by constructing the flats. The petitioner is admittedly in possession of various vacant flats and premises. The respondent no.1 by filing a claim affidavit before the respondent no.2 demanded certain sum towards various heads which are referred to in the plaint. After notice to the present petitioner the respondent no.2 Deputy Registrar, has issued a certificate in favour of the respondent no.1 society under section 101 of the Act. Aggreived by the said certificate the present writ petition has been filed.

2. The learned counsel appearing for the respondent no.1 society raised a preliminary objection to the maintainability of the writ petition, by contending that there exist an alternative efficacious remedy in the form of revision under section 154 of the Act, and the petiitoner ought to have availed the said remedy before approaching this court. It is also pointed out that sub section (2A) of section 154 provides a condition of pre-deposit of 50% of the amount, before a revision could be entertained. There are various challenges raised in the present petition, such as:

(i) The petitioner cannot be fastend with the liability as he is not a member of the society.

(ii) The society cannot make a claim for recovery of the amount retrospectively with effect from the year 1990. and

(iii) That the society had infact taken a decision by passing a resolution that the amount shall not be claimed from the present petiitoner, etc...

5. I do not propose to adjudicate the issues raised in this petition as I am of the clear view that having regard to the nature of the dispute raised in the

petition, and having regard to the various issues that crop up for adjudication, it would be appropriate to relegate the present petitioner to the revisional remedy. So that all issues raised in this petition can be heard and decided by the revisional authority.

6. As I am not inclined to entertain the writ petition, the learned counsel for the petitioner submits that the petitioner be granted reasonable time to file the revision before the Divisional Joint Registrar and till then the respondent no.1 be restrained from executing the certificate.

7. Writ petiiton thus stand summarily dismissed. However, the petitioner is granted two weeks time to file revision under section 154 of the Act after making compliance of sub section (2A) of section 154. It will not be out of place to mention that the impugned order was passed in the month of June 2007. However, the present petition is pending in this ourt from July 2007. The respondent no.1 shall not execute the certificate for a period of three weeks from today so that the petitioner can seek appropriate orders on the stay application which he propose to file before the revisional authority. Writ petition is thus summarily dismissed.

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